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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 CATHERINE CAMPBELL,

10 Plaintiff,

11 v.

12 JANET YELLEN, United States Secretary of
13 the Treasury,

14 Defendant.

15 Case No. 2:23-cv-00637-JHC

16 STIPULATED PROTECTIVE
17 ORDER

18 1. PURPOSES AND LIMITATIONS

19 Discovery in this action is likely to involve production of confidential, proprietary, or
20 private information for which special protection may be warranted. The government anticipates
21 that, among other documents to be produced that may require special protection, documents
22 pertaining to individuals in a “system of records,” as defined by the Privacy Act, 5 U.S.C.
23 § 552a(a)(5) (the “Privacy Act”), disclosure of which would potentially constitute a violation of
24 criminal and civil law under § 552a(b) of the Privacy Act, absent an Order from this Court
25 pursuant to § 552a(b)(11) of the Privacy Act, may need to be released and/or disclosed in
26 discovery for the purpose of litigating this case. The parties further recognize that documents
27 reflecting other confidential agency information, such as documents reflecting attorney-client
28 privileged communications or attorney work product prepared or reviewed by Plaintiff in the
 course of her employment with Defendant, may be subject to discovery for the purpose of
 litigating this case. The parties additionally recognize that documents reflecting information of a

1 personal nature in which Plaintiff has a reasonable expectation of privacy, including financial
2 and medical information, may be subject to discovery for the purpose of litigating this case.

3 Accordingly, the parties hereby stipulate to and petition the court to enter the following
4 Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR
5 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the
6 protection it affords from disclosure and use extends only to the limited information or items that
7 are entitled to confidential treatment under the applicable legal principles, and it does not
8 presumptively entitle parties to file confidential information under seal.

9 The parties further stipulate and acknowledge that this Stipulated Protective Order does
10 not waive or limit any privilege or protection against disclosure of information otherwise
11 applicable in discovery in this litigation, nor does it have any effect whatsoever on the scope of
12 information that is properly discoverable in this litigation under the applicable federal and local
13 rules.

14 2. **“CONFIDENTIAL” MATERIAL**

15 “Confidential” material shall include the following documents and tangible things
16 produced or otherwise exchanged:

- 17 • Any person’s financial records, including tax returns;
- 18 • Medical records and medical information;
- 19 • Personnel and employment-related records of any current or former government
employee;
- 20 • Documents related to any other current or former government employee’s
protected activity;
- 21 • Documents previously designated by the government as subject to a claim of
privilege or other protection in any proceeding other than the instant litigation; and
- 22 • Any other records whose release without a protective order would potentially
violate the Privacy Act, 5 U.S.C. § 552a.

1 3. SCOPE

2 The protections conferred by this agreement cover not only confidential material (as
3 defined above), but also (1) any information copied or extracted from confidential material; (2)
4 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
5 conversations, or presentations by parties or their counsel that might reveal confidential material.

6 However, the protections conferred by this agreement do not cover information that is in
7 the public domain or becomes part of the public domain through trial or otherwise.

8 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

9 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
10 or produced by another party or by a non-party in connection with this case only for prosecuting,
11 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
12 the categories of persons and under the conditions described in this agreement. Confidential
13 material must be stored and maintained by a receiving party at a location and in a secure manner
14 that ensures that access is limited to the persons authorized under this agreement.

15 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
16 ordered by the court or permitted in writing by the designating party, a receiving party may
17 disclose any confidential material only to:

18 (a) the receiving party’s counsel of record in this action, as well as employees
19 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

20 (b) the officers, directors, and employees (including in house counsel) of the
21 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties
22 agree that a particular document or material produced is for Attorney’s Eyes Only and is so
23 designated;

24 (c) experts and consultants to whom disclosure is reasonably necessary for
25 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit
26 A);

27 (d) the court, court personnel, and court reporters and their staff;

(e) copy or imaging services retained by counsel to assist in the duplication of confidential material, provided that counsel for the party retaining the copy or imaging service instructs the service not to disclose any confidential material to third parties and to immediately return all originals and copies of any confidential material;

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this agreement;

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

4.3 Filing Confidential Material. Before filing confidential material or discussing or referencing such material in court filings, the filing party shall confer with the designating party, in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will remove the confidential designation, whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. During the meet and confer process, the designating party must identify the basis for sealing the specific confidential information at issue, and the filing party shall include this basis in its motion to seal, along with any objection to sealing the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal. A party who seeks to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with the strong presumption of public access to the Court's files.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
3 or non-party that designates information or items for protection under this agreement must take
4 care to limit any such designation to specific material that qualifies under the appropriate
5 standards. The designating party must designate for protection only those parts of material,
6 documents, items, or oral or written communications that qualify, so that other portions of the
7 material, documents, items, or communications for which protection is not warranted are not
8 swept unjustifiably within the ambit of this agreement.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
10 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
11 unnecessarily encumber or delay the case development process or to impose unnecessary
12 expenses and burdens on other parties) expose the designating party to sanctions.

13 If it comes to a designating party's attention that information or items that it designated
14 for protection do not qualify for protection, the designating party must promptly notify all other
15 parties that it is withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
17 agreement or as otherwise stipulated or ordered, disclosure or discovery material that qualifies
18 for protection under this agreement must be clearly so designated before or when the material is
19 disclosed or produced.

20 (a) Information in documentary form: (*e.g.*, paper or electronic documents
21 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), the designating party must affix the word "CONFIDENTIAL" to each page that
23 contains confidential material. If only a portion or portions of the material on a page qualifies for
24 protection, the producing party also must clearly identify the protected portion(s) (*e.g.*, by making
25 appropriate markings in the margins).

26 (b) Testimony given in deposition or in other pretrial proceedings: the parties
27 and any participating non-parties must identify on the record, during the deposition or other
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1 pretrial proceeding, all protected testimony, without prejudice to their right to so designate other
2 testimony after reviewing the transcript. Any party or non-party may, within fifteen days after
3 receiving the transcript of the deposition or other pretrial proceeding, designate portions of the
4 transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect
5 confidential information at trial, the issue should be addressed during the pre-trial conference.

6 (c) Other tangible items: the producing party must affix in a prominent place
7 on the exterior of the container or containers in which the information or item is stored the word
8 "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection,
9 the producing party, to the extent practicable, shall identify the protected portion(s).

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
11 designate qualified information or items does not, standing alone, waive the designating party's
12 right to secure protection under this agreement for such material. Upon timely correction of a
13 designation, the receiving party must make reasonable efforts to ensure that the material is treated
14 in accordance with the provisions of this agreement.

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
17 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
18 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
19 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
20 challenge a confidentiality designation by electing not to mount a challenge promptly after the
21 original designation is disclosed.

22 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
23 regarding confidential designations without court involvement. Any motion regarding
24 confidential designations or for a protective order must include a certification, in the motion or
25 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer
26 conference with other affected parties in an effort to resolve the dispute without court action. The
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1 certification must list the date, manner, and participants to the conference. A good faith effort to
2 confer requires a face-to-face meeting or a telephone conference.

3 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
4 intervention, the designating party may file and serve a motion to retain confidentiality under
5 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
6 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
7 made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on
8 other parties) may expose the challenging party to sanctions. All parties shall continue to
9 maintain the material in question as confidential until the court rules on the challenge.

10 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
11 OTHER LITIGATION

12 If a party is served with a subpoena or a court order issued in other litigation that compels
13 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
14 must:

15 (a) promptly notify the designating party in writing and include a copy of the
16 subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or order to
18 issue in the other litigation that some or all of the material covered by the subpoena or order is
19 subject to this agreement. Such notification shall include a copy of this agreement; and

20 (c) cooperate with respect to all reasonable procedures sought to be pursued
21 by the designating party whose confidential material may be affected.

22 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

23 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
24 material to any person or in any circumstance not authorized under this agreement, the receiving
25 party must immediately (a) notify in writing the designating party of the unauthorized
26 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material,
27 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
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1 this agreement, and (d) request that such person or persons execute the “Acknowledgment and
2 Agreement to Be Bound” that is attached hereto as Exhibit A.

3 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
4 PROTECTED MATERIAL

5 When a producing party gives notice to receiving parties that certain inadvertently
6 produced material is subject to a claim of privilege or other protection, the obligations of the
7 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
8 provision is not intended to modify whatever procedure may be established in an e-discovery
9 order or agreement that provides for production without prior privilege review. The parties agree
10 to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

11 10. NON-TERMINATION AND RETURN OF DOCUMENTS

12 Within 60 days after the termination of this action, including all appeals, each receiving
13 party must return all confidential material to the producing party, including all copies, extracts,
14 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
15 destruction.

16 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
17 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
18 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
19 work product, even if such materials contain confidential material.

20 The confidentiality obligations imposed by this agreement shall remain in effect until a
21 designating party agrees otherwise in writing or a court orders otherwise.

IT IS SO STIPULATED.

DATED: August 20, 2024

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DATED: August 20, 2024

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Attorneys for Defendants

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3 **ORDER**

4 PURSUANT TO STIPULATION, IT IS SO ORDERED

5 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
6 documents in this proceeding shall not, for the purposes of this proceeding or any other federal
7 or state proceeding, constitute a waiver by the producing party of any privilege applicable to
8 those documents, including the attorney-client privilege, attorney work-product protection, or
9 any other privilege or protection recognized by law.

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11 DATED: August 21, 2024.

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14 JOHN H. CHUN
United States District Court Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on [date] in the case of _____ [**insert formal name of the case and the number and initials assigned to it by the court**]. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date:

City and State where sworn and signed:

Printed name:

Signature: